

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

EDMOND J. CARRIERE, JR.,)
Petitioner,)
v.)
SUPERINTENDENT SEAN MEDEIROS,)
Respondent.)

)

) Civil Action No.
15-13496-FDS

ORDER ON CERTIFICATE OF APPEALABILITY

SAYLOR, J.

This is a petition seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254(d).

Petitioner Edmond J. Carriere, Jr., was convicted by a jury in state court of one count of first-degree murder under theories of deliberate premeditation and extreme atrocity and cruelty. He was given a mandatory sentence of life in prison without the possibility of parole. The Court has denied his petition for a writ of habeas corpus. He can only appeal that denial if he receives a certificate of appealability. For the following reasons, the Court will certify the appealability of this denial as to Grounds 1 and 3 of his amended petition, but not as to Ground 4.

A certificate of appealability will issue only if the petitioner “has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). That standard is satisfied by “demonstrating that jurists of reason could disagree with the district court’s resolution of [petitioner’s] constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)). That standard must

be independently satisfied as to “each and every issue raised by a habeas petitioner.” *See Bui v. DiPaolo*, 170 F.3d 232, 236 (1st Cir. 1999).

The Court concludes that jurists of reason could disagree as to (1) whether the admission of various hearsay statements violated Carriere’s right to a fair trial or his Sixth Amendment right to confront the witnesses against him; and (2) whether the exclusion of Grebauski’s statement to Mello violated Carriere’s right to put on a defense. Jurors of reason could not, however, disagree that the prosecutor’s statements as to the burden of proof were harmless and that denial of relief as to the prosecutor’s characterization of Carriere during the closing argument is supported by an adequate and independent state ground.

Accordingly, a certificate of appealability is GRANTED as to Grounds 1 and 3 of the amended petition, and DENIED as to Ground 4 of the amended petition.

So Ordered.

Dated: September 5, 2018

/s/ F. Dennis Saylor
F. Dennis Saylor, IV
United States District Judge